

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BERNARD WAITHAKA, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

AMAZON.COM, INC., AMAZON
LOGISTICS, INC.,

Defendants.

No. C19-01320-RSM

ORDER RE: JOINT STATUS REPORT

This matter comes before the Court *sua sponte* and on parties' joint status report dated April 1, 2021. Dkt. #94. On November 30, 2020, the Court stayed this matter pending the final resolution of *Waithaka v. Amazon.com, Inc., et al.* (1st Cir. No. 19-1848), or *Rittmann v. Amazon.com, Inc., et al.* (9th Cir. No. 19-35381), whichever occurred first. Dkt. #91. On March 17, 2021, Defendants Amazon.com, Inc. and Amazon Logistics, Inc. (collectively, "Amazon") filed a noticed advising that the U.S. Supreme Court denied their petition in *Rittman*. Dkt. #92 at 2 (citing *Amazon.com, Inc. v. Rittmann*, No. 20-622, 2021 WL 666403, at *1 (U.S. Feb. 22, 2021)). Accordingly, the conditions for lifting the stay in this matter have been met. *See* Dkt. #91 at 16.

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1 Defendants now seek to extend the stay on the basis that the Supreme Court is likely to
2 rule on their pending petition for writ of certiorari in *Waithaka* “in a matter of days following
3 the April 16 conference.” Dkt. #94 at 2. Amazon also cites to another case, *Saxon v. Sw.*
4 *Airlines Co.*, No. 19-3226, 2021 WL 1201367 (7th Cir. Mar. 31, 2021) as evidence of “further
5 division between the circuits” that may increase the likelihood of the Supreme Court granting
6 certiorari. *Id.*

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8 For the second time, Amazon requests that this Court extend the stay pending final
9 resolution of both *Rittman* and *Waithaka*. The Court previously denied Amazon’s request on
10 the basis that “disposition of the *Rittman* petition directly implicates the probability that
11 *Waithaka* will be granted, and visa versa” Dkt. #91 at 15. The Court finds that the Seventh
12 Circuit’s recent decision in *Saxon* does not change its conclusion. While *Saxon* considers the
13 holdings in *Rittman* and *Waithaka*, it does not appear to reject them. *See generally Saxon*, 2021
14 WL 1201367. This holding is consistent with *Wallace v. Grubhub Holdings, Inc.*, which
15 approvingly cited *Waithaka* and distinguished its facts without identifying any conflict. *See*
16 970 F.3d 798, 802, n.2 (7th Cir. 2020). Accordingly, the Court does not find *Saxon* sufficient
17 basis to further delay this matter.
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19 Lastly, even if the Court has erred in its reasoning and the Supreme Court grants
20 certiorari in *Waithaka*, its mistake would be short-lived. *See* Dkt. #94 at 2 (Amazon contending
21 that the Supreme Court will rule “in a matter of days” after April 16, 2021). Based on this short
22 time span, the Court cannot find that Amazon would suffer substantial harm in the interim.
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24 For the reasons set forth above, the Court ORDERS that the stay in this matter is lifted,
25 effective immediately.
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1 Dated this 7th day of April, 2021.
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5 RICARDO S. MARTINEZ
6 CHIEF UNITED STATES DISTRICT JUDGE
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